



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/450,551	11/30/1999	RAGHURAMA BHYRAVABHOTLA	8470	7808

26884 7590 10/17/2003

PAUL W. MARTIN  
LAW DEPARTMENT, WHQ-5E  
1700 S. PATTERSON BLVD.  
DAYTON, OH 45479-0001

EXAMINER

RUDY, ANDREW J

ART UNIT PAPER NUMBER

3627

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/450,551

Applicant(s)

BHYRAVAHOTLA

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**DETAILED ACTION**

***Response to Amendment***

1. Claims 1-14 are pending.
2. Applicant's September 11, 2003 Amendment has been received, but is not convincing. The requested clarification of the Examiner's position follows.

***Claim Rejections - 35 USC § 103***

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brick et al., US 6,269,342.

Brick discloses an electronic shelf label comprising a memory 334, 354, an interface 338A, 338B, 358A, 358B, a display 340, 362 and a processor 352. Brick discloses a series of operations performed for each shelf label via an audible or visual 362 means (e.g., see col. 15). The programming device 350 is independent of a central processor 312. It is noted that the terms electronic shelf labels and electronic price labels are interchangeable. As noted by Applicant in the RESPONSE, the Examiner is in agreement that Brick does not specifically use the terms "diagnostic" or "self-diagnostic" within the body of his disclosure. However, the term "test" is found in Brick on page 2, under "OTHER PUBLICATIONS" along with the Giant Food citation.

Nonetheless, it is the Examiner's position that the audible alarm or "updating" of the operation disclosed by Brick, e.g. col. 15, in broad scope and content may reasonably encompass the term test as recited by Applicant. By implementing the broadcast signals of new prices broadcast by processor 312 that may be initiated by "a modem, the Internet, satellite, and the like" (col. 15) as disclosed by Brick, a test would have been completed. To perform diagnostic or self-diagnostic tests by Brick would have been obvious to one of ordinary skill in the art. Doing such would provide an inherent function of the Brick disclosure. It is the examiners position that Brick discloses a particular characteristic, e.g. the price condition, of the shelf labels.

However, it is further noted that diagnostic tests or self-diagnostic tests are well-known in the computer art. To periodically perform a self-diagnostic tests on each of the shelf labels independent of a status request issued by the central processor for Brick would have been inherently obvious to one of ordinary skill in the art. Doing such would implement in Brick well known and common knowledge diagnostic testing or self-diagnostic testing means used within the computer art.

Applicant reliance on the terms "diagnostic" or "self-diagnostic" or "test" are noted. However, each term is given its plain meaning. It is noted that Applicant may be its own lexicographer to define the parameters of term definitions. However, there is/are no such definitions that presently provide a line of demarcation over Brick.

Art Unit: 3627

4. Further pertinent references of interest are noted on the attached PTO-892.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

Art Unit: 3627

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Andrew Joseph Rudy